

JUDGE MANNING  
MAGISTRATE JUDGE COX  
AO

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

G.M. SIGN, INC., an Illinois corporation, )  
individually and as the representative of a class of )  
similarly situated persons, )  
Plaintiff, )  
vs. )  
ENTRE COMMERCIAL REALTY, LLC, )  
Defendant. )

) Case No. \_\_\_\_\_

) (Originally filed as  
Case No. 08 CH 5001  
in the Circuit Court of the 19th  
Judicial Circuit, Lake County,  
Illinois)

## **NOTICE OF REMOVAL**

Defendant Entre Commercial Realty, LLC (“Entre”), by and through its attorneys, Sonnenschein Nath & Rosenthal LLP, respectfully submits this Notice of Removal of this action pursuant to 28 U.S.C. §§ 1331, 1367 and 1441. In support, Entre states:

1. Because a federal question exists, this is a civil action over which the District Courts of the United States have original jurisdiction as provided in 28 U.S.C. § 1331.
  2. Count I of Plaintiff's Complaint alleges a violation of the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227, which gives rise to federal question jurisdiction. See *Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 451 (7th Cir. 2005) (finding TCPA claim subject to removal under 28 U.S.C. § 1441); see also *G.M. Sign, Inc. v. Franklin Bank, S.S.B.*, 2006 WL 1132386, \*3 (N.D. Ill. April 19, 2006) ("... *Brill* is the only controlling authority on the issue, and clearly stands for the notion that federal courts have 'arising under' jurisdiction over TCPA claims pursuant to 28 U.S.C. § 1331, and that such claims are thus

removable under 28 U.S.C. § 1441. Therefore, we are bound by the *Brill* decision and, consequently, find that because subject matter jurisdiction exists under 28 U.S.C. § 1331, remand would be improper.”).

3. Pursuant to 28 U.S.C. § 1367(a), the Court has supplemental jurisdiction over Counts II and III, which assert conversion and violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2.

4. Accordingly, this action is removable to this Court pursuant to 28 U.S.C. §§ 1331, 1367 and 1441.

5. This cause is now pending in the Circuit Court of the 19<sup>th</sup> Judicial Circuit, Lake County, Illinois, under the name *G.M. Sign, Inc., an Illinois corporation, individually and as the representative of a class of similarly-situated persons v. Entre Commercial Realty, LLC*, Case No. 08 CH 5001.

6. Pursuant to the provisions of 28 U.S.C. § 1446, Entre attaches as Exhibit A the Summons and Complaint filed in the Circuit Court of Lake County, Illinois.

7. Removal is timely pursuant to 28 U.S.C. § 1446(b) because Entre was served on January 2, 2009. Although § 1446(b) gives the defendant 30 days to seek removal, this can be extended when the clerk’s office is inaccessible on the last day of the 30-day period. “When the last day is excluded, the period runs until the end of the next day that is not a Saturday, Sunday, legal holiday, or day when the clerk’s office is inaccessible.” Rule Fed. R. Civ. P. 6(a)(3). Because the 30-day period in this case expired on a weekend, the period runs until the end of the day on Monday, February 2, 2009.

8. A copy of this Notice is being served on Plaintiff’s counsel and will be filed with the Clerk of the Circuit Court of Lake County, Illinois.

9. Entre hereby reserves all defenses and objections to Plaintiff's Complaint.

WHEREFORE, defendant Entre removes this action to this Court for further proceedings according to law.

Dated: February 2, 2009

Respectfully submitted,

/s/ Blaine C. Kimrey

Blaine C. Kimrey  
One of the attorneys for defendant Entre  
Commercial Realty, LLC

Blaine C. Kimrey (ARDC #6279625)  
Bryan K. Clark (ARDC #6296090)  
SONNENSCHEIN NATH & ROSENTHAL LLP  
7800 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606  
(312) 876-8000  
(312) 876-7934 (fax)  
[bkimrey@sonnenschein.com](mailto:bkimrey@sonnenschein.com)

*Attorneys for defendant Entre Commercial Realty, LLC*

**CERTIFICATE OF SERVICE**

I, Blaine C. Kimrey, an attorney, hereby certify that I caused a copy of the foregoing **Notice of Removal** to be served via first-class mail on this 2<sup>nd</sup> day of February 2009 upon:

Brian J. Wanca ANDERSON + WANCA 3701 Algonquin Road Suite 760 Rolling Meadows, IL 60008	Phillip A. Bock Bock & Hatch, LLC 134 N. LaSalle Street #1000 Chicago, IL 60602
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/s/ Blaine C. Kimrey  
Blaine C. Kimrey